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STATE OF IOWA  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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WINNESHIEK COUNTY,	)	PUBLIC EMPLOYMENT
	)	RELATIONS BOARD
Public Employer,	)	
	)	
and	)	CASE NO. 5238
	)	
BULLERMAN, KAPPES and	)	
SCHNITZLER,	)	
	)	
Petitioners.	)	

PROPOSED DECISION AND ORDER

This proceeding arises as a result of a petition for clarification of bargaining unit, filed by Patricia Bullerman, Helen Kappes and Roxanne Schnitzler (Petitioners) pursuant to rule 4.7 of the rules of the Public Employment Relations Board (PERB or Board), 621 Iowa Admin. Code 4.7(20). The petition seeks a determination of whether the job classification of jailer/matron is included in the job classifications within the existing Winneshiek County (County) bargaining unit represented by the American Federation of State, County and Municipal Employees (AFSCME).

Pursuant to notice, an evidentiary hearing on the petition was conducted before the undersigned on June 15, 1995, at PERB's office in Des Moines, Iowa. The County was represented by Mr. Jack Lipovac and petitioners by Ms. Ramona Drilling.

Having reviewed the record, as well as the arguments of the parties in support at their respective positions, I issue the following proposed findings of fact, conclusions of law and order.

## FINDINGS OF FACT

Winneshiek County is a public employer within the meaning of §20.3(11), AFSCME is an employee organization within the meaning of §20.3(4) and the petitioners are public employees of Winneshiek County within the meaning of §20.3(10).<sup>1</sup>

In December 1982, the Winneshiek County Deputy Sheriff's Bargaining Unit was certified by PERB in Case No. 2294 as the exclusive bargaining representative for certain employees of Winneshiek County in the following bargaining unit:

INCLUDED: All full-time non-supervisory personnel including all patrol duty Deputy Sheriffs, which currently includes Badge No. 96-3 through 96-8 and as thereafter may be increased.

EXCLUDED: Sheriff and Chief Deputy and all other persons excluded by Section 4 of the Act. This excludes the Sheriff, Deputy Sheriff, and all secretarial/matron personnel.

According to the testimony adduced at hearing, at the time of the unit's certification, the non-supervisory employees of the Winneshiek County Sheriff's Department included the deputy sheriffs, a secretary and an individual who was classified as a secretary/matron.

The duties of the one secretary/matron were mainly secretarial in nature. These duties included the typing of letters and official correspondence (i.e. accident reports and criminal investigation reports), bookkeeping, transmitting citations to the clerk of court, handling bank transactions and general filing duties. On occasion the secretary/matron would be called on for

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<sup>1</sup> These and all subsequent statutory citations are to the Code of Iowa (1995).

assistance in the jail area when a female inmate was in custody. This duty included performing custodial searches and chaperoning when a deputy was required to transport a female inmate.

This particular function was sporadic in nature as the testimony demonstrated that the presence of female inmates was infrequent, and that the sheriff's department would go as long as a year without having to deal with a female inmate.

The secretary/matron's office is in the sheriff's office and when summoned she would proceed to the jail on those few occasions when her presence was needed. The secretary/matron hours of work are 8:00 a.m. to 4:00 p.m. No certification is required for a secretary/matron.

In July, 1986, a hearing was conducted in an amendment of unit proceeding which sought to include the classification of secretary/matron into the existing bargaining unit. The classification of secretary/matron was amended into the existing bargaining unit in PERB Case No. 3078.

The amended bargaining unit description, then and now, is described as follows:

INCLUDED: All full-time non-supervisory personnel including patrol deputy sheriffs, which currently includes Badge No. 96-3 through 96-9, and thereafter may be increased, and all secretary/matron personnel.

EXCLUDED: Sheriff, chief deputy sheriff and all secretarial personnel.

In October 1987, the certification of the bargaining unit was amended by PERB in case no. 3533 to reflect that the certified employee organization representing the unit was AFSCME/Iowa Council

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Prior to 1988 there were no jailers working for the sheriff's department in the jail area. There was also no job classification of jailer. Patrol deputies generally would do their own booking procedures when a prisoner was in custody. Although the record is not clear as to what mandated a change in this method of operation, in 1988 the sheriff's department changed the operation in the jail to include full-time personnel whose main function was to work in the jail and oversee the various job functions required to maintain the jail.

To that end, the job classification of jailer/matron was created. The three petitioners were hired in 1988 and 1989 as jailer/matrons. Although the petitioners regard themselves as matrons, the written job description is jailer/matron.<sup>2</sup>

Initially, each jailer/matron was required to be certified by the Iowa Law Enforcement Academy (ILEA) which required a forty (40) hour training school either at ILEA or by a National Sheriff's Association correspondence course. The various functions required of a jailer/matron include: booking of inmates (i.e. paperwork, fingerprinting, photography), serving of meals, visitation scheduling, inmate and jail laundry, supervision of inmates during exercise periods, physical checks of inmates and other jail duties as directed by the sheriff.

The jailer/matrons work three (3) eight (8) hour shifts around the clock with shifts of 7:00 a.m. to 3:00 p.m.; 3:00 p.m. to 11:00 p.m. and 11:00 p.m. to 7:00 a.m. Other than the booking process,

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<sup>2</sup> County Exhibit 1.

the jailer matrons do not do dictation, typing or other clerical duties.

In the period between 1988 and 1995, the County and AFSCME, bargained two collective bargaining agreements but did not bargain on behalf of the jailer/matrons as both parties, according to the testimony, did not consider that classification to be in the bargaining unit. In 1992, the AFSCME representative informally requested the County to include the jailer/matrons in the unit but the County declined to do so. No formal petition was filed to amend the classification of jailer/matron into the bargaining unit.

#### CONCLUSIONS OF LAW

The issue in this case is whether the job classification of jailer/matron is included in the bargaining unit description. The County contends that neither it or the certified employee organization, AFSCME, have ever considered that the jailer/matrons were included in the bargaining unit and have never engaged in contract negotiations on their behalf and secondly, the County argues that the job description and duties of the classifications of secretary/matron and jailer/matron are so dissimilar as to preclude the jailer/matron classification from inclusion in the unit.

The Petitioner's argue that since the word "matron" occurs in both classifications that necessarily means that the jailer/matrons are included in the existing bargaining unit and that the duties and functions between the two classifications are so similar that they should be included in the unit.

PERB rule 4.7 states in part:

**Unit Clarification.** A petition to clarify the inclusion or exclusion of job classifications or employees in a board determined bargaining unit may be filed by the public employer, an effected public employee, or the certified employee organization. Such petition must be in the absence of a question of representation...

A unit clarification proceeding is intended to determine whether the job classification at issue constitutes a part of the existing bargaining unit. Generally, a unit clarification contemplates a situation in which a previously determined bargaining unit description may be confusing as to the inclusion or exclusion of a certain job classification.<sup>3</sup>

In this case the confusion arises in that both classifications contain the word "matron". The Board has on prior occasion set out the criteria to be considered in determining unit clarification issues. In Eastern Iowa Community (Merged Area IX) the Board stated:

...[A] unit clarification under section 4.7 of our rules... is indeed distinct from an amendment of unit under Rule 4.6. The amendment of unit process provides a vehicle for making adjustments in a bargaining unit. In contrast, the unit clarification proceeding is intended to clarify the make-up of the unit as presently constituted.

Thus, the principal focus is on whether the position at issue does constitute part of the existing bargaining unit, specifically, whether the position is encompassed by the wording of the present unit description. If that description itself unambiguously resolves the question, the inquiry is concluded. If, however, the unit description is ambiguous

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<sup>3</sup> City of Waverly, 77 PERB 896.

with regard to the position at issue, attention is turned to other factors which might be probative of whether the position falls within the determined unit, including such matters as whether it has traditionally been treated as such, whether similar positions or persons who perform similar duties are included in the unit, and like factors. But again, the focus is on those matters probative of whether the position is and has been in the bargaining unit, not whether it should be or should have been placed in the bargaining unit.<sup>4</sup>

In the instant case, the amended bargaining unit description sets out two classifications specifically included in the bargaining unit. At the time of the amendment, 1986, the job classification at issue -- jailer/matron -- was not in existence. In 1988 when the jailer/matron position was created so the County would have full-time jail personnel, neither the County nor the certified employee organization, AFSCME, considered the jailer/matron classification to be in the existing bargaining unit. The County and AFSCME have, at no time, bargained over wages or conditions of employment for the jailer/matron classification. Although an informal request was made by AFSCME in 1992, the County declined to include the jailer/matrons in the parties contract negotiations. Thus, the jailer/matron classification has not traditionally been treated as included in the bargaining unit.

Additionally, there are no similar positions or persons who perform similar duties who are included in the unit. The jailer/matrons position was specially created to fill a void when the County was required in 1988 to have certified personnel

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<sup>4</sup> Eastern Iowa Community College (Merged Area IX), 82 PERB 2110.

operating the jail full-time. This certification by ILEA is a requirement of jailer/matrons, and not required of the secretary/matron. Prior to 1988, the patrol deputies worked part-time at the jail as well as the secretary/matron when a female inmate was present. After 1988, the jailer/matrons performed the jail functions.

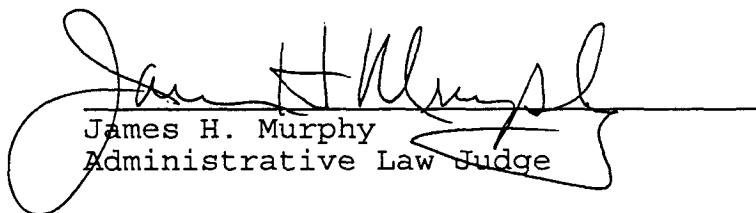
Thus, I conclude that the job classification of jailer/matron is not currently nor in the past included in the bargaining unit as certified in PERB Case No. 2294, and amended in Case No. 3078.

Based upon the foregoing, I hereby issue the following:

PROPOSED ORDER

IT IS HEREBY ORDERED that the bargaining unit certified in Case No. 2294 and amended in Case No. 3078 be clarified to add the job classification "jailer/matron" to the list of the job classifications excluded from the bargaining unit.

DATED at Des Moines, Iowa this 5<sup>th</sup> day of September, 1995.

  
James H. Murphy  
Administrative Law Judge

Copies to:

Ms. Ramona Drilling  
Mr. Jack Lipovac  
Mr. Tom Anthony